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EXAMINER

TRUONG, BAO Q

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 03/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/493,119

Applicant(s)

SHOWERS ET AL.

Examiner

Bao Q. Truong

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendment on February 12 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-7, 9-13, 19, 23-28 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vernondier [US 4,994,944] in view of Merritt [US 4,434,455].

Regarding claims 1 – 6 and 38, Vernondier discloses a linear lighting system including a tubular housing with a base channel strip [10] and a cover strip [11] and a multiple lamps [60]. Vernondier discloses an engaging portion [51]. Wherein a cover strip [11] is an extruded translucent plastics element and plastic element is polycarbonate material (figures 1 and 5, column 4, lines 15 – 40, column 5, lines 27 - 32). Vernondier does not specify the polycarbonate material as means to diffuse light from the light source.

Merritt teaches a polycarbonate pigmented by titanium dioxide having means to diffuse light (abstract, column 2, lines 48-68).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the material polycarbonate pigmented by titanium dioxide of Merritt in the polycarbonate material of Vernondier in order to provide a diffusing light means.

Regarding claim 7, Vernondier discloses light emitting diodes (column 6, line 6).

Regarding claims 9 and 10, Vernondier discloses a solid housing and a lighting compartment [17] (figure 1, column 4, lines 25 - 34).

Regarding claim 11, Vernondier discloses a linear lighting system including a tubular housing with a base channel strip [10] and a cover strip [11] being an extruded translucent plastics element (figure 1, column 4, lines 15 - 40).

Regarding claim 12, Vernondier discloses circuit boards [65] extending along an internal cavity of a tubular housing (column 5, lines 59 - 65 and figure 6, column 6, lines 24 - 26).

Regarding claim 13, Vernondier discloses a pair of lateral flanges [41, 42] (figure 3, column 5, lines 1 - 14).

Regarding claim 19, Vernondier discloses a coupling element [110] (figures 15A-15E, column 6, lines 50 - 65).

Regarding claim 23, Vernondier discloses a coupling element [110] and connector element [120] (figures 15A-15E and 16A-16D, column 7, lines 1 - 62).

Regarding claims 24 - 26, Vernondier discloses a coupling element [110] having a housing [111], an entry slot [115], connecting elements [117] and resilient forks [120] (figures 15A-15E, column 6, lines 51 - 68 and column 7, lines 1 - 14).

Regarding claim 27, Vernondier discloses a linear light system for decoration (abstract).

Regarding claim 28, Vernondier discloses a decorative lighting system being at a corner (figure 5).

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vernondier [US 4,994,944] in view of Merritt [US 4,434,455] further in view of JP 09258676.

Regarding claim 8, Vernondier does not disclose the convex segment.

JP 09258676 shows the use of transparency convex cover [2] (figure 1, column 2, line 43).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the convex cover of JP 09258676 in the decorative lighting system of Vernondier for a strip lighting in order to provide a better view.

4. Claims 14 - 18 and 32 - 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vernondier [US 4,994,944] in view of Merritt [US 4,434,455] and Roossine et al. [US 4,482,944].

Regarding claim 32, Vernondier discloses a linear lighting system including a tubular housing with a base channel strip [10] and a cover strip [11] and a multiple lamps [60]. Wherein a cover strip [11] is an extruded translucent plastics element (figure 1, column 4, lines 15 - 40). Vernondier does not disclose the mounting rail adapting to be fastened to the surface and does not specify the polycarbonate material as means to diffuse light from the light source.

Merritt teaches a polycarbonate pigmented by titanium dioxide having means to diffuse light (abstract, column 2, lines 48-68).

Roossine et al. teach the use of raceway [60] with a lip [68] and an indentation [82] (figures 1, 2, 3, column 5, lines 40 - 58).

Regarding claim 14, Vernondier does not disclose the mounting means. Roossine et al. teach the use of raceway [60] with a lip [68] and an indentation [82] (figures 1, 2, 3, column 5, lines 40 - 58).

Regarding claims 15 and 33, Vernondier does not disclose the housing overlying the rail. Roossine et al. teach the use of U-shape [62] overlying a raceway [60] (figure 3, column 5, lines 40 - 45).

Regarding claims 16 and 34, Vernondier does not disclose the sliding engagement. Roossine et al. teach the use of sides [71] for sliding engagement (figure 3, column 5, lines 45 - 52).

Regarding claims 17 and 35, Vernondier does not disclose the undercut formation. Roossine et al. teach the use of lip [68] (figure 3, column 5, lines 50 - 54).

Regarding claims 18 and 36, Vernondier does not disclose the face for fastening to a surface. Roossine et al. show the use of mounting bracket [86] (figure 3, column 5, lines 60 - 65).

Regarding claim 37, Vernondier discloses a coupling element [110] (figures 15A-15E, column 6, lines 50 - 65).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the raceway system of Roossine et al. and to use the material polycarbonate pigmented by titanium dioxide of Merritt in order to provide a rail mounting means and a diffusing light means.

5. Claims 20 - 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vernondier [US 4,994,944] in view of Merritt [US 4,434,455] as applied to claim 1 above, and further in view of Rouso et al. [US 5,765,938].

Regarding claim 20, Vernondier does not disclose the means to couple the housing to other similar housing.

Rouso et al. show the use of a flexible core [16] for connecting a first housing to a second housing (figure 1, column 2, lines 53 - 60 and column 4, lines 5 - 40).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the flexible core of Rouso et al. in the decorative lighting system of Vernondier for a strip lighting in order to provide a flexibility of housing connection.

Regarding claims 21 and 22, Vernondier discloses two longitudinally extending dividing walls [116], sidewall of parts [112, 113] and recesses [119] (figure 15A - 15E, column 6, lines 51 - 68 and column 7, lines 1 - 12).

6. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vernondier [US 4,994,944] in view of Merritt [US 4,434,455] as applied to claim 1 above, and further in view of Wood [US 5,404,279].

Regarding claims 29 - 31, Vernondier does not disclose the strip lighting structure being placed at edge of roof.

Wood teaches the use of a decorative light assembly being located at an edge of a roof (figure 1).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the decorative light assembly being located at an edge of a roof of Wood in the decorative lighting system of Vernondier for a strip lighting in order to provide a decoration style.

7. Claims 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rousso et al. [US 5,765,938].

Regarding claims 39 and 40, Rousso et al. disclose a flexible core [16], a pair of longitudinally slots [47], contacts [36, 38, 42, 46], a sleeve [18], a screw [57] and boss [69A, 69B] to seal two tubular housing [12 and 14] (figures 1 and 7, column 3, lines 1 -



68, column 5, lines 15-19). Rousso et al. do not disclose the internal flange defined the peripheral groove to seal the end of the tubular portions.

It would have been obvious to one having ordinary skill in the art to design the internal flange defined the peripheral groove, since applicant has not disclosed that the internal flange defined the peripheral groove solves any new stated problem other than sealing two tubular portions and it appears that the invention would perform equally well with the screw [57] and boss [69].

### ***Response to Arguments***

8. Applicant's arguments filed on February 12 2002 have been fully considered but they are not persuasive.

Independent claims 1, 32 and 38, the applicant recites "*However, neither Vernondier nor Merritt, individually or in combination, disclose or suggest light sources that are "substantially not visible by human eyes when not activated and viewed from outside said housing, and substantially not distinguishable when activated and viewed from outside said housing"*".

In specification page 9 line 13-21, the applicant recites the tube segment [14] being made of translucent material which is preferably that the LEDs are not visible by human eyes when not activated and viewed from outside said housing, and substantially not distinguishable when activated and viewed from outside said housing.

Vernondier [US 4,994,944] discloses the cover trip [11] being an extruded translucent/transparent plastics element (column 4, lines 25-27).

Furthermore, there is no patentability significant of selecting a known material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claims 3, 5-31 and 33-37 are unpatentable because they are dependent on independent claim 1.

Claims 39-40, the applicant recites the new limitation, the internal flange defined the peripheral groove to seal the end of the tubular portions. However, they are unpatentable and the rejection is stated above.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

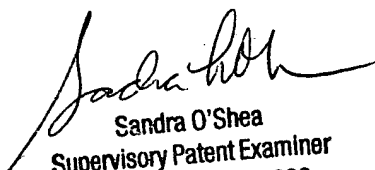
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Q. Truong whose telephone number is (703) 308-6452. The examiner can normally be reached on Monday-Friday (8:00 AM - 5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (703) 035-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7725 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.

Bao Q. Truong  
Examiner  
Art Unit 2875

BQT  
March 18, 2002

  
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